

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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RITA FORD,	)	
	)	
Appellant,	)	DOCKET NO.: PT-2000-7
	)	
-vs-	)	
	)	
THE DEPARTMENT OF REVENUE	)	FACTUAL BACKGROUND,
OF THE STATE OF MONTANA,	)	CONCLUSIONS OF LAW,
	)	ORDER and OPPORTUNITY
Respondent.	)	<u>FOR JUDICIAL REVIEW</u>

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The above-entitled appeal was heard on June 5, 2001 in the City of Kalispell, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was given as required by law.

The Appellant, represented by her husband, Ken Ford, provided testimony in support of the appeal. Carolyn Carman and Tim Norton, appraisers, with the Flathead County Appraisal Office, represented the Respondent, Department of Revenue (DOR). The DOR presented one witness, Mr. William Wright, Kalispell Unit Manager, Northwestern Land Office, Department of Natural Resources and Conservation (DNRC). Testimony was presented, exhibits were received, and the Board requested additional evidence from DNRC by means of a post hearing submission. The taxpayer was provided an opportunity to submit additional comments to the post-hearing submission by June 18, 2001.

Mrs. Ford is the appellant in this proceeding and, therefore, has the burden of proof. Based on the evidence, testimony, and post-hearing submissions, the Board affirms the market value of the land established by DOR under jurisdiction of the Montana Code Annotated (MCA) and Administrative Rules of Montana (ARM). The DOR has demonstrated to this Board that its appraisal of the subject state-leased land was accomplished pursuant to §77-1-208, MCA.

#### **STATEMENT OF THE ISSUE**

The issue before this Board in this appeal is the proper valuation of land owned by the State of Montana and leased as a cabin site in accordance with §77-1-208, MCA. The market value of improvements are not in contention in this appeal.

#### **FACTUAL BACKGROUND**

1. Due, proper and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.
2. The property, which is the subject of this appeal, is land leased from the State of Montana and described as follows:  
  
Lot 19, on Echo Cabin Loop, 1.23 acres of lakefront property on Echo Lake, Section 5, Township 27, Range 19 West, County of Flathead, State of Montana. (Assessor number DSL3053030).
3. For the 2000 tax year, the DOR appraised the subject leased lot at a value of \$88,047.
4. Mrs. Ford filed a timely appeal with the Board on October 21,

2000, requesting a market value of \$69,558, stating:

*Leased land is not the same as private land, therefore, has a lower value. Leased land carries incumbrances (sic) that private property does not. Each incumbrance (sic) has a negative value of 3.5% (7) which determines its value by taxpayer.*

5. The Board has jurisdiction in this matter, pursuant to §77-1-208, MCA.

#### **TAXPAYER'S CONTENTIONS**

In support of the appeal, Mr. Ford entered the following exhibits:

Exhibit 1, Cabinsite Rules and Regulations, DNRC, Trust Land Management Division.

Exhibit 2, A letter to Rita Ford from William F. Wright regarding a plan to manage wood and fuel to reduce wildfire potential, dated July 1, 1997.

Exhibit 3, A map showing the location of Lot 19, titled Office of Montana State Forester, Echo Lake Summer Home Lots (1956).

Exhibit 4, The bill to Rita Ford from DNRC for the lease for 1996.

Exhibit 5, A letter to Kenneth and Rita Ford from Jeff J. Jahnke, Chief, Forest Management Bureau, DNRC, reviewing the lease and designation of Lot 19 as a "Residence Lot", dated November 3, 1988.

Exhibit 6, The Residential/Agricultural Property Record Card, Flathead County, for Rita Ford, Lot 19, Echo Lake Summer Home Lots, highlighting the width and depth of the lot, and the Influence Codes, (6) Restrictions or Nonconforming Uses.

Mr. Ford stated that the subject property was first leased from the State of Montana in 1967. The current lease, effective March 1, 1991, is for fifteen years, with a renewal date of

February 28, 2006.

Mr. Ford testified that the use of the property is typically as a summer retreat. He questioned the increasing lease fee in view of the fact that the use of the land and bundle of rights are not comparable to those enjoyed through fee simple ownership. The use of the land is limited and restricted by lease rules and regulations. He noted that the state reserves 100 feet of right of way from the shoreline for public access. The lessee considers this a trespass and security concern.

Mr. Ford testified that he also considers other encumbrances to include public use of the land (particularly for firewood cutting), the inability to rent or sublease the property without written approval by DNRC, and a prohibition against felling of live or green trees without permission from the DNRC. (Exhibit 1).

The requested value results from an adjustment of the 1996 DOR appraised value of the land of \$88,047 to \$69,558, by discounting seven of the DNRC rules and regulations as lease encumbrances. Each rule was considered to be a 3.5% encumbrance on the property, the annual percentage of appraised value used to calculate the lease fee by the DNRC.<sup>1</sup>

Mr. Ford testified that the improvements are assessed and taxed separate from the land.

He testified that he has seen a few leases sold in the area, and in his opinion, as the lease fee increases, the marketability

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<sup>1</sup> The correct calculation is  $\$88,047 - \$21,572 = \$66,475$  ( $3.5\% \times 7 \times \$88,047 = \$21,572$ )

and affordability of the property diminishes. He testified that lenders do not recognize much value in equity or collateral in improvements on leased land to support a loan for purchase or more improvements.

He does believe that the lease has been a bargain when comparing the lease of lake front property to the cost of purchasing similar land in the neighborhood.

#### DOR CONTENTIONS

DOR presented the following exhibits:

Exhibit A, A map titled Echo Lake Lot 19, showing a representative land survey of Lot 19. Measured by DNRC on June 4, 2001.

Exhibit B, DNRC Fact Sheet, HomeSite/CabinSite Lease Program.

Exhibit C, A summary of the lease fees for Lot 19, titled Section 5, T27N, R19W, Echo Lake Lease Lot 19, 3053030, Ford, since 1967.

Exhibit D, Photos of the subject property.

Exhibit E, Four pages consisting of the Residential/Agricultural Property Record Card; a map showing Echo Lake Summer Home Lots (1956); a letter (no letterhead) to Mr. Ford from Carolyn Carman; explaining the appraisal value of the Lot, dated December 11, 2000; and a letter to Mr. Ford from Scott Williams, Regional Manager, DOR, regarding reappraisal, dated December 27, 1995.

Exhibit F, Statutes and administrative procedures, §15-8-111, MCA, Assessment - market value standard - exceptions; §77-1-106, MCA, Setting of rates or fees - rules . . . state lands and cabin sites . . . (3); §77-1-208, MCA, Cabin site licenses and leases - method of establishing value; Property Assessment Division, Valuation and Assessment Procedures, Volume 1, dated December 16, 1994, establishing DOR as the appraiser for the Department of State Lands (now reorganized in DNRC); §77-1-208, MCA, (1), explaining the appraisals without

regard to phase-in; and §77-1-804, MCA, (2) regarding categorical closure for recreational use (a) cabin site and homesite leases and licenses.

Exhibit G, titled Land Value Sales, for the neighborhood 891.FF, valuation date: January 1, 1996.

Exhibit H, titled Current Sales on Echo Lake, summarizing a selection of transactions in 1999 - 2001, and Current Sales of Improvements on State Leases.

Exhibit I, A map showing Location of Sales Used for (valuations of similar property) Neighborhood 891FF in yellow highlights referring to Exhibit G.

Exhibit J, A map showing Current Land Sales on Echo Lake in yellow highlights and the Current Improvement Sales on State Leased Land in blue highlights referring to Exhibit H.

Exhibit K, copy of the DNRC lease agreement with the taxpayer.

Exhibit L, A copy of a memorandum to Senator Tom Keating, Montana State Senate, dated February 1, 1989, from Purnal Whitehead, discussing the increase in fees for leases on Echo Lake and other state lands, and a copy of an appraisal of a lot on Echo Lake, titled Appraisal Report and Valuation Analysis, by Don. E. McBurney, for Purnal D. Whitehead, dated April 1, 1988.

Mr. Wright spoke to the issue of the measurements of the lot. He testified that the Echo Lake state lease lots were originally established in 1956 through surveys conducted by foresters. Reestablishing lot corners and sizes has been an ongoing process.

DNRC provided a copy of the lease agreement and an historical record including an independent appraisal of a state lease on Echo Lake by Don. E. McBurney, dated April 1, 1988, with a memorandum, dated February 1, 1989, by Purnal Whitehead, pursuant to protests statewide and at Echo Lake opposing the increase in the annual fee for a state lease.

Ms. Carman added that the DOR is appraising the property for the State of Montana, the fee simple owner. The State of Montana has chosen to rent the property within certain parameters regarding the use of that property. The DOR is required to appraise the State's property as fee simple pursuant to §77-1-208, MCA.

The DOR determination of market value of the land was derived from analysis of sales using accepted appraisal techniques.

### **BOARD DISCUSSION**

Legislation has determined the lease rate and also assigned the DOR with the responsibility of conducting appraisals for DNRC.

**Section 9.** Section 77-1-208, MCA, is amended to read: "**77-1-208. Cabin site licenses and leases - method of establishing value.** (1) The board<sup>2</sup> shall set the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. **The fee must attain full market value based on appraisal of the cabin site value as determined by the Department of Revenue... The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111 without any adjustments as a result of phasing in values** (emphasis supplied)..."

This Board has studied the history of the legislation that regulates fees for state cabin site leases, as enacted in 1983 and amended in 1989 and 1993. §77-1-208, MCA states "The board (of land commissioners) shall set the annual fee based on **full market value** (*emphasis added*) for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain **full market value** (*emphasis added*) based on appraisal of the cabin site value as determined by the department of revenue..."

The original legislation enacted by the 1983 legislature as House Bill 391 (Chapter 459), reads, in pertinent part:

**AN ACT TO REQUIRE THAT IF THE BOARD OF LAND COMMISSIONERS ADOPTS RULES TO ESTABLISH THE MARKET VALUE OF CABIN SITE LICENSES AND LEASES, IT ADOPT A METHOD OF VALUATION OF CURRENT CABIN SITE LICENSES AND LEASES BASED UPON AN APPRAISED LICENSE OR LEASE VALUE AND A METHOD OF VALUATION OF INITIAL CABIN SITE LICENSES OR LEASES BASED UPON A SYSTEM OF COMPETITIVE BIDDING; AND PROVIDING FOR THE VALUATION, DISPOSAL, OR PURCHASE OF FIXTURES AND IMPROVEMENTS.**

**WHEREAS**, on February 13, 1981, the Board of Land Commissioners proposed to adopt rules concerning surface licenses and leases for the use of state forest lands for recreational cabin sites by private individuals, which rules would have established the market value of recreational cabin site licenses and leases by a system of competitive bidding; and

**WHEREAS**, the rules would have allowed out-of-state interests and other parties to increase by competitive bidding the cost of current cabin site licenses and leases and would thereby have worked a hardship on or dispossessed current licensees and lessees and were therefore subsequently withdrawn by the Board; and

**WHEREAS**, the policy of this state for the leasing of state lands as provided in 77-1-202 is that the guiding principle in the leasing of state lands is "that these lands and funds are held in trust for the support of education and for the attainment of other worthy objects helpful to the well-being of the people of this state"; and

**WHEREAS**, allowing current cabin site licensees and lessees to continue to enjoy the benefits of existing licenses and leases and the benefits of their labor is a worthy object helpful to the well-being of the people of this state in that it promotes continuity in the case of state lands, promotes use of state lands by the public by granting a minimal expectation of continuing enjoyment, and promotes satisfaction with governmental processes.

**THEREFORE**, it is the intent of this bill to direct that if the Board of Land Commissioners adopts any rules under whatever existing rulemaking authority it may have to establish the market value of current cabin site licenses or leases, that the Board, in furtherance of the state policy expressed in 77-1-202, adopt a method of establishing the market values of cabin site licenses and leases which would not cause undue disruption to the lives and property of and useful enjoyment by current licensees and lessees.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:**

**Section 1. Method of establishing market value for licenses and leases.** (1) If the board adopts, under any existing authority it may have on October 1, 1983, a method of establishing the market value of cabin site licenses or leases differing from the method used by the board on that date, the board shall under that authority establish a method for setting the market value of:

(a) each cabin site license or lease in effect on October 1, 1983, for each licensee or lessee who at any time wishes to continue or assign his license or lease, which method must be **5% of the**



**appraisal of the license or lease value of the property** (*emphasis added*), which value may be increased or decreased every fifth year by 5% of the change in the appraised value..."

In a previous appeal (*Marilyn A. & Daniel E. Harmon vs. Department of Revenue, PT-1999-19*) that, following the passage of the above legislation, statewide meetings were held with lessees, who expressed their concerns with the 5% fee. This resulted in the reduction to 3.5% (or 70% of the 5%), as implemented by Senate Bill 226 (Chapter 705), passed by the 1989 legislature. As introduced, Senate Bill 226 proposed a reduction of the 5% fee to "1.5% of the appraisal of the cabin site value as determined by the county appraiser." The fiscal note for the bill stated:

"The significant difference between the current process and this proposed law is the percentage used to derive the rental. Current law provides that the rental will be **5% of the lease value (3.5% of appraised value)**. The proposed legislation sets the rental at **1.5% of appraised value.**" (*Emphasis added*).

During the February 1, 1989 hearing on Senate Bill 226 before the Senate Committee on Natural Resources, the following exhibit was presented by the bill's sponsor, Senator Matt Himsl:

#### **RENTAL RETURNS ON CABIN SITES ON STATE LANDS**

The Forestry Division - Department of State Lands is charged with the responsibility of administering the cabin sites...

According to the Forestry Division, 633 cabin sites have been identified on state lands. Almost all of these sites are in areas west of the Continental Divide... All of the identified state land cabin sites were under lease under the old law.

The 1983 Legislature passed HB 391 which instructed the Board of Land Commissioners to change the method of valuing cabin site licenses and leases after October 1, 1983, to:

(a) each cabin site license or lease in effect on October 1, 1983, for each licensee or lessee who at any times wishes to continue or assign his license or lease, which method must be **5% of the appraisal of the license or lease value of the property...** (*Emphasis added*)

The problem surfaced when the department began to implement the 1983 law in 1987 and began issuing notices that the rental fees would be **5% of the appraised value of the land, interpreting lease value to be market value.** (*Emphasis added*). That judgment shot the leases

which had been \$150 a year up to \$2,300 a year, in some cases. A storm of protests from the lessees got the department to reconsider and **the Board determined that the "lease value" would be 70% of the appraised market value, then applied the 5%.** (*Emphasis added*) The method still drove the leases sky high and brought into play the appraisal values which the lessees protested. The department appraisers then re-visited the sites and began making adjustments, some of the reappraisals dropped as much as \$10,000. There seems to have been no standard judgment. As an example a lease, which about five years ago was \$50, went up to \$150 and then went up to \$2,300, then dropped \$910 a year. This explains why people are upset.

Senate Bill 226 would be a simple and uniform procedure: The County appraiser, who already goes on the property to appraise the improvements, would appraise the land, just as he does the neighbor. **Since the lessee does not have the rights of the fee-simple landowner, and since the state reserves a "public corridor" on the beach, the lessee does not have a private beach and adjustments in value would be made accordingly.** (*Emphasis added*)

Then if the rental fee would be 1.5% of the appraised value, the lessee would be paying about the same as his neighbor pays in taxes to support the government. However, in this case of state lands, it would go to the state elementary and secondary school funds.

**If the lessee didn't like the appraisal value, he would have the same appeal structure as any other landowner and the system would be uniform.** (*Emphasis added*)

Senator Himsel testified "the 1.5% figure is arbitrary but the state will find that the total tax runs between 1.4 and 1.8 of the market value." During the committee's executive action on the bill, 1.5% was amended to 2%. As amended, the bill was transmitted to the House and was heard by the House Taxation Committee on March 31, 1989. During the hearing an amendment was proposed to return the fee to the original 5%, but the amendment failed. The committee passed the bill with the 2% rate to the House floor for action, where it was amended to 3.5% and passed. The joint House/Senate conference committee considering the bill's amendments allowed the 3.5% to remain, and the final bill was passed with that percentage. The joint conference committee also added a provision to the bill for a minimum fee, so the final language of the

relevant section reads as follows:

§77-1-208, MCA, 1 (a)...The fee must be **3.5%** of the appraisal of the cabin site value as determined by the department of revenue **or \$150, whichever is greater...** (*Emphasis added*)

Senate Bill 424 (Chapter 586), passed by the 1993 legislature, amended §77-1-208 to eliminate the 3.5% annual fee, substituting the language that is presently in statute:

"(1) The board shall set the annual fee **based on full market value** for each cabin site... The fee must **attain full market value** based on appraisal of the cabin site value as determined by the department of revenue." (*Emphasis added*)

An attempt was made in the Senate Taxation Committee to restore the language to 3.5%, but the amendment was defeated. The statute has not been further amended since 1993.

The applicable Administrative Rules of Montana state:

**36.25.110 MINIMUM RENTAL RATES** (6)(a) Effective March 1, 1996, and except as provided in (b), the minimum rental rate for a cabinsite lease or license is **the greater of 3.5% of the appraised market value of the land,** excluding improvements, as determined by the department of revenue pursuant to 15-1-208, MCA, **or \$250.** (*emphasis added*) (b) For cabinsite leases or licenses issued prior to July 1, 1993, the minimum rental rate in (a) is effective on the later of the following dates: (i) the first date after July 1, 1993, that the lease is subjected to readjustment pursuant to the terms of the lease, or the first date after July 1, 1993, of lease renewal, whichever date is earlier; or (ii) March 1, 1996. (c) Until the minimum rate in (a) becomes applicable, the minimum rate is the greater of 3.5% of the appraised market value of the land, excluding improvements, as determined by the department of revenue pursuant to 15-1-208, MCA, or \$150.

The Board recognizes the concern that potential buyers of leased properties may be deterred by increases in lease fees. The Montrust Supreme Court decision (*Montanans for the Responsible Use of the School Trust v. State of Montana, ex rel. Board of Land Commissioners and Department of Natural Resources and Conservation, 1999 Mont. 263; 989 P.2d 800*) was filed by a citizens' action

group, *Montanans for the Responsible Use of the School Trust*, against the Montana Board of Land Commissioners and the DNRC, challenging fourteen school trust lands statutes, including §77-1-208, MCA, relating to cabin site leases. The decision, in pertinent part, states:

"¶26 The District Court (of the First Judicial District) ruled that §77-1-208, MCA, did not violate the trust because it requires that full market value be obtained. However, the District Court found that the Department had a policy of charging a rental rate of 3.5% of appraised value (hereafter, the rental policy) and that Montrust had introduced an economic analysis of cabin site rentals showing that the rental policy's 3.5% rate was 'significantly below a fair market rental rate.' The District Court concluded that the rental policy violated the trust's constitutional requirement that full market value be obtained for school trust lands... ¶31...we conclude that the rental policy violates the trust... In the present case, the trust mandates that the State obtain full market value for cabin site rentals. Furthermore, the State does not dispute the District Court's determination that the rental policy results in below market rate rentals. We hold that the rental policy violates the trust's requirement that full market value be obtained for school trust lands and interests therein."

Increases in lease fees as a result of the Montrust suit may have results that are unfavorable to present leaseholders, including fewer potential buyers for their properties and declining values of their improvements. Two previous Board decisions relevant to these concerns are *DOR v. Louis Crohn*, PT-1997-158, and *DOR v. Burdette Barnes, Jr.*, PT-1997-159.

To date this Board has not been presented supporting evidence that the potential increase in lease fees have adversely impacted land or improvement values.

The DOR's statutory mission, pursuant to §77-1-208, MCA, is to arrive at market value. Summarized, the Computer Assisted Land Pricing (CALP) table for subject neighborhood (Exhibit G)

illustrates the following:

CALP	Width	Depth
Base Size	100	250
Base Rate	\$684	
Adj. Rate	\$415	
Monthly Rate of Change	0.9448%	

Sale	Sale Date	Lot Width	Lot Depth	Sale Price	Price per FF	Adjusted Price	Adjusted Price per FF
#1	1/93	142	150	\$90,000	\$634	\$120,613	\$848
#2	4/94	100	169	\$35,000	\$350	\$42,544	\$425
#3	7/95	154	210	\$65,000	\$310	\$68,685	\$446
#4	1/93	200	220	\$92,500	\$463	\$123,963	\$620
#5	1/94	97	247	\$45,000	\$464	\$55,204	\$569
#6	2/95	192	277	\$101,325	\$528	\$111,856	\$583
#7	8/93	100	418	\$52,000	\$520	\$66,248	\$662
#8	2/95	189	424	\$55,000	\$291	\$60,716	\$321
#9	1/92	102	450	\$65,000	\$637	\$94,479	\$926

Exhibit E (property record card)					
Subject	Assessment Date	Lot Width	Lot Depth	DOR Appraised Value	DOR Appraised Value per FF
	1/96	145	255	\$88,047	\$607

The DOR indicated that in a previous tax year the depth was modified to reflect 255 feet. The adjustment was based on the access road splitting the easterly or rear portion of the lot. This adjustment has been carried forward into the current appraisal cycle. Exhibit E describes how the DOR valued the subject parcel for the current appraisal cycle:

<u>Standard Lot on Echo Lake</u>	
Frontage	100 feet
Depth	250 feet
Base Price	\$685 per front foot
Adjusted Price	\$415 per front foot

<u>Subject Lot</u>	
Area	1.12 acres
Frontage	145 feet
Average Depth	401 feet
100 feet X \$685 = \$68,500	
45 feet X \$415 = \$18,675	
Total	\$87,175

Depth Adjustment

Square Root of Actual Depth/Standard Depth

Square Root of 255 feet/250 feet = 1.01

Total Value X Depth Adjustment Factor

\$87,175 X 1.01 = **\$88,047**

Had the DOR valued the subject lot based on 145 feet of frontage and 401 feet of depth, the value would be as follows:

100 feet X \$685 =	\$68,500
45 feet X \$415 =	\$18,675
Total	\$87,175

Depth Adjustment

Square Root of Actual Depth/Standard Depth

Square Root of 401 feet/250 feet = 1.266

Total Value X Depth Adjustment Factor

\$87,175 X 1.266 = **\$110,364**

In essence, what the DOR has done by only recognizing a depth of 255 feet is reduce the value by approximately 20% (\$88,047/\$110,364). One would not know this by simply reviewing the property record card. The DOR CAMAS allows the DOR to apply influence factors when valuing land. This is illustrated on the property record card, exhibit E. It is the opinion of the Board that the proper method would be to value the entire lot and apply an influence factor. The property record card illustrates various influence codes, i.e., excess frontage, topography, shape/size, etc. In this case the DOR has determined the value has been adversely impacted by 20.221%. The board's order will **not** modify the value, but rather how the DOR identifies the total area of the subject lot and the application of the adjustment factor. The adjustment factor will be identified as an adjustment for shape/size. The DOR shall value the subject lot as follows:

100 feet X \$685 =	\$68,500
45 feet X \$415 =	\$18,675
Total	\$87,175

Depth Adjustment

Square Root of Actual Depth/Standard Depth  
Square Root of 401 feet/250 feet = 1.266

Total Value X Depth Adjustment Factor  
\$87,175 X 1.266 = \$110,364

Adjustment Factor (Influence Code)

Unadjusted Market Value	\$110,364
Shape/Size Adjustment (20.221%)	X 79.779%
Market Value	\$ 88,047

Based on the Board's modifications as to how the value will applied, anyone reviewing the property record card could identify what was being appraised.

The Board agrees with the market value indication of \$88,047.

Although Mr. Ford suggested that the value of privately owned property should be significantly more than a leased property with encumbrances, Montana statutes require that leased property be appraised at full market value (§77-1-208, MCA). Statute precludes the DOR from making any distinction between fee simple property versus leased fee property when determining value.

**CONCLUSIONS OF LAW**

1. The State Tax Appeal Board has jurisdiction over this matter.  
**§15-2-302, MCA and §77-1-208, MCA .**
2. **§77-1-208, MCA. Cabin site licenses and leases--method of establishing value.** (1) The board shall set the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain full market

value based on appraisal of the cabin site value as determined by the department of revenue... The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111 without any adjustments as a result of phasing in values. An appeal of a cabin site value determined by the department of revenue must be conducted pursuant to Title 15, Chapter 2. (Emphasis supplied).

3. It is true, as a general rule, that the appraisal of the Department of Revenue is presumed to be correct and that the taxpayer must overcome this presumption. The Department of Revenue should, however, bear a certain burden of providing documented evidence to support its assessed values. (Western Airlines, Inc., v. Catherine Michunovich et al., 149 Mont. 347, 428 P.2d 3, (1967)).
4. The Board concludes that the Department of Revenue has properly followed the dictates of **§77-1-208 (1), MCA**, in assigning a market value to the subject property for lease fee purposes.
5. The appeal of the lessee is hereby denied and the decision of the DOR is affirmed.

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**ORDER**

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject land shall be entered on the tax rolls of Flathead County by the local Department of Revenue office at the 2000 tax year value of \$88,047, as determined by the Department of Revenue. The Board further orders the DOR to revise the property record card to comply with page 15 of this opinion.

Dated this 25th day of June, 2001.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

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GREGORY A. THORNQUIST, Chairman

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JERE ANN NELSON, Member

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LARRY L. BROWN, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 25th day of June, 2001, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Rita Ford  
3018 Horsehead Bay Drive  
Gig Harbor, Washington 98335

Office of Legal Affairs  
Department of Revenue  
Mitchell Building  
Helena, Montana 59620

Flathead County Appraisal Office  
P.O. Box 920  
Kalispell, Montana 59903-0920

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DONNA EUBANK  
Paralegal